

# Exhibit 3

**U.S. Department of Labor**

Occupational Safety and Health Administration  
Harrisburg Area Office  
43 Kline Village  
Harrisburg, PA 17104  
Email: [oshaharrisburg@dol.gov](mailto:oshaharrisburg@dol.gov)  
Phone: (717) 782-3902  
Fax: (717) 782-3746



September 10, 2021

(b) (7)(C)

Dear (b) (7)(C) :

I am writing to share with you the post-inspection and abatement results of the Occupational Safety and Health Administration (OSHA) inspection into the death of John Evanoff and to inform you that the case has been settled as of September 9, 2021.

**The employer received two citations regarding the protection of hazardous equipment to include the prevention of falling into those hazardous systems. The employer accepted the citations as written without contesting the violations.**

I would like to emphasize that, under the Occupational Safety and Health Act, any penalties proposed by OSHA as a result of a citation are not based on the occurrence of a fatality. Instead, the gravity of the violation is the primary consideration in determining penalty amounts. The penalty for each violation is determined by combining the severity of the injury and the probability of its occurrence. In some cases, penalties may be reduced from the maximum allowable by law based on the company's size and history of previous violations.

The Freedom of Information Act (FOIA) governs the release of information concerning incident inspections conducted by OSHA. Upon written request, OSHA will provide you with the portions of the inspection file that may be released under FOIA.

If you have any questions about our inspection, please contact me:

Kevin T. Chambers  
USDOL/OSHA  
43 Kline Village  
Harrisburg, PA 17104  
Telephone: (717) 782-3902  
E-Mail: [oshaharrisburg@dol.gov](mailto:oshaharrisburg@dol.gov)

Again, I would like to express to you my deepest sympathy.

**Kevin T. Chambers**

Digitally signed by Kevin T. Chambers  
Date: 2021.09.10 10:59:22 -04'00'

Kevin T. Chambers  
Area Director

Enclosures

## U.S. Department of Labor

Occupational Safety and Health Administration  
 Harrisburg Area Office  
 43 Kline Village  
 Harrisburg, PA 17104-1529  
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7/30/2021

DRA Concurrence:

7/30/2021

EP Concurrence: \_\_\_\_\_

MEMORANDUM FOR: MICHAEL J. RIVERA  
 Regional Administrator

THROUGH: THOMAS C. CARLE  
 Deputy Regional Administrator

FROM: KEVIN T. CHAMBERS  
 Area Director

SUBJECT: East Penn Manufacturing Company, Inc. - Fatality Review

<b>Employer Legal Name:</b> East Penn Manufacturing Company, Inc.		<b>Inspection Number:</b> 1518156	<b>6 Month Date:</b> September 6, 2021
<b>Date of Incident:</b> March 6, 2021	<b>Date of Death:</b> March 6, 2021	<b>Date of Report:</b> March 7, 2021	<b>Opening Conf. Date:</b> March 7, 2021
<b>CSHO Last Name:</b> (b) (7)(C)	<b>AAD Last Name:</b> Zerbini	<b>Type of Industry:</b> Battery Manufacturing	<b>Number of site ee:</b> 125 <b>Total number ee:</b> 8000
<b>Proposed Penalty:</b> \$21,578.00	<b>Incident Related Items:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>NAICS Code</b> 335911	<b>AAD Review:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>AD Review:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Multi-Employer Worksite:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Type of Employer:</b> <input checked="" type="checkbox"/> Controlling <input checked="" type="checkbox"/> Correcting <input checked="" type="checkbox"/> Creating <input checked="" type="checkbox"/> Exposing <input type="checkbox"/> Not Applicable		

**Establishment/Employer Info:**

East Penn Manufacturing Company is a large battery manufacturing facility. They manufacture lead acid batteries that are used in many different types of vehicles. It is a large facility that spans 520 acres where production is run daily across three shifts. At the opening of the inspection, there were approximately 8000 non-union employees that were controlled by the employer. The incident occurred in the building where the lead furnace is located, specifically in the lead smelting department. The company has participated in multiple OSHA inspections in the previous five years. The company is not in VPP or SHARP. There is no expectation of media interest in this case. There has been no RSOL participation.

**Next-of-Kin Involvement:**

Next of kin is the decedent's (b) (7)(C). AD Chambers sent the Area Office condolence letter on March 12, 2021. The condolence letter from the Principle Deputy Assistant Secretary James Frederick was sent on May 3, 2021.

**Cause of the Fatality:**

On March 6, 2021 at approximately 11:26 pm, the decedent was working in the smelting department of a battery manufacturing facility. While he was loading a large piece of lead into a smelter kettle, he fell through an opening in the kettle lid, into the molten lead that was at the bottom of the kettle. The employee was consumed by the approximate 1000 degree molten lead.

**Description of the Incident:**

On the night of March 6, 2021, employee John Evanoff was working in the smelter area of East Penn Manufacturing, a battery manufacturing facility. Mr. Evanoff was employed as a Refinery Attendant in the smelter department. The smelting process includes heating lead in a large furnace, then pouring the lead into large kettles where it is processed as part of the smelting process. The smelting process includes removing impurities, or dross from the lead, as well as adding additives to the lead to create a desired alloy. The smelting kettles are large vessels that are recessed into the floor, and are approximately 8 feet in diameter and 6.25 feet deep.

As part of the smelting process, molten lead is often excreted from the top of the smelter kettle, and collects on the sides of the kettle and also the floor next to the kettle. This lead eventually solidifies and needs to be cleaned or removed. This lead is often removed with a shovel, or pry bar, or an air hammer. When the lead is removed, it is typically placed back into the smelter kettle. Sometimes it can be picked up by hand, and sometimes a forklift is used if the pieces are too large to lift manually. The lead is typically placed back into the smelter through an opening in the lid of the smelter. The opening in the lid is approximately 4 feet in diameter. Employees sometimes step up onto the lid of the smelter to load the lead through the opening.

On the evening of the incident, the decedent had removed a large piece of lead from the floor next to the smelter. This piece of lead was loaded onto the forks of a forklift. The forklift was then repositioned so that the piece of lead could be dropped through the opening in the lid of the smelter. Mr. Evanoff and another employee stepped onto the lid to help facilitate loading the piece of lead into the smelter. While Mr. Evanoff was attempting to manually facilitate the piece of lead through the opening in the lid, he fell through the lid opening and into the molten lead at the bottom of the kettle.

**Justification for Willful, Repeats, and 5(a)(1) Violations:**

There are no proposed willful, repeat or 5a1 violations for this inspection.

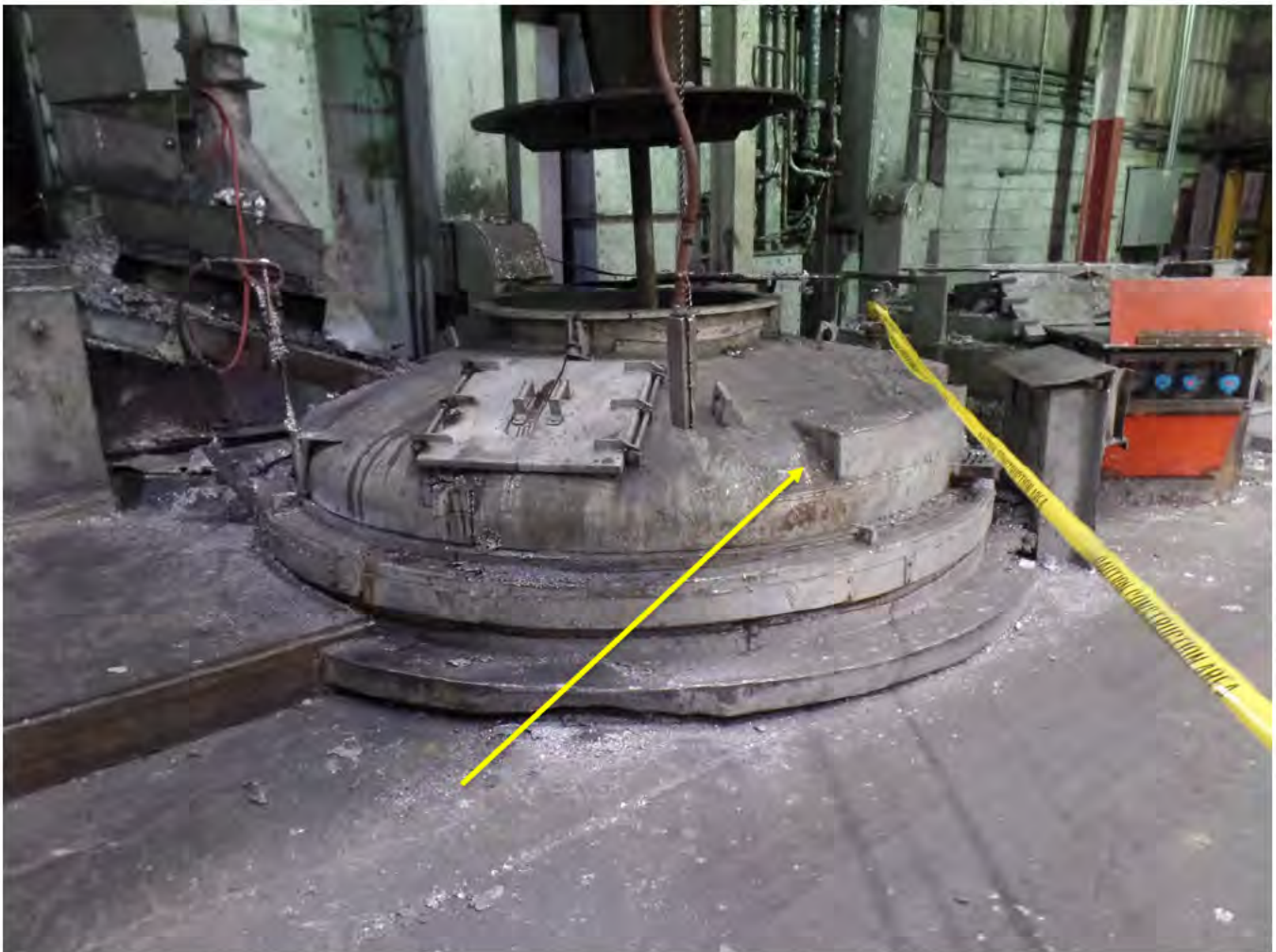
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### **Proposed Citations**

The investigation revealed that employees who work in the smelting department often worked in close proximity to the opening in the kettle lid while the kettles contained molten lead. The employer did not take the precautions necessary to prevent employees from exposure to falling into the kettle. As a result, there will be proposed citations under the walking working surface standard.

There were also additional hazards that were identified. When the kettle hoods are removed from the smelter kettles, employees are exposed to fall hazards into the kettles over the side of the tops of the kettles. There was also a reach to a step that was 24 inches from the floor. This step facilitates access to the work platform that is built into the tops of the kettle hoods.



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### Reduction Factors

Size: 0%

History: +10%

Good Faith: 0%

Classification, Cit. # and Item#	Standard Cited	Violation Description	Proposed Penalty	Related to Fatality
Serious, 1-1	1910.22(c)	Employees stepping 24 inches to access kettle hood.	\$7295.00	N
Serious, 1-2 a	1910.28(b)(3)(i)	Employees were exposed to falling into the smelter kettles through the opening in the kettle hood that contained molten lead.	\$13653.00	Y
Serious, 1-2 b	1910.28(b)(6)(ii)	Employees were exposed to fall hazards into the smelter kettles when the kettle hoods were removed.	0	N

\* The Area Director, per the FOM, departed from the general penalty policy and eliminated the reduction factors for those items relating directly to the fatality in order to achieve an appropriate deterrent effect.

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